



City of Miami Springs, Florida

Board of Adjustments

Regular Meeting Minutes

Thursday, March 7th, 2022 6:30PM

City Hall Council Chambers, 201 Westward Drive, Miami Springs, FL

1. CALL TO ORDER/ROLL CALL:

The meeting was called to order by Chair Ernie Aloma at 6:30 PM

Present: Chair Ernie Aloma
Vice Chair Bill Tallman
Board Member Ralph P. Kropp
Board Member Rogelio Madan
Board Member Joe Valencia

Absent: Board Member Juan Molina

Also Present: City Planner Christopher Heid (via Zoom)
Mayor Maria P. Mitchell (via Zoom)
City Manager William Alonso (via Zoom)
Board Secretary Juan Garcia
Assistant to the City Clerk Sandra Duarte

Chair Aloma expressed condolences towards Chair Tallman and gives him best wishes along with encouragement towards the future. He also shared an update he had given to Council in regards to the Adjustment Board proceedings and how he requested for Council to support their recommendations.

2. APPROVAL OF MINUTES OF REGULAR MEETING:

a. May 3rd, 2021

Vice Chair Tallman motioned to approve the minutes as written of the May 3rd, 2021 meeting. Board Member Madan seconded the motion and was carried unanimously 5-0 on voice vote.

3. SWEARING IN OF ALL WITNESSES AND PLANNING DIRECTOR:

Board Secretary Garcia swore in everyone giving testimony during the proceedings.

4. NEW BUSINESS:

- A. CASE # 01-V-22**
APPLICANT: UTD BUILDING CORPORATION
ADDRESS: 5553 NW 36th STREET
ZONING: NW 36th STREET
LOT SIZE: 13,500 SQ. FT

City Attorney Alejandro Uribe summarized the staff report which involved a painted wall that did not follow the approved color pallet. Attorney Uribe outlined how as per the City's Code of Ordinance section 93-51(C)(4) there should be no more than three approved colors used to paint a building.

Chair Aloma asked City Planner Heid if any correspondence was received. City Planner Heid informed that no public correspondence was received besides UTD staff requesting an appeal. Chair Aloma clarified with City Planner Heid that the applicant has requested for the Board to make a judgment call on whether the mural is allowed or not to which City Planner Heid agreed.

The UTD Building Corp. Attorney Javier Fernandez from SMGQ Law located at 1200 Brickle Avenue addressed the Board and noted how UTD is seeking an appeal from the previous administrative decision. He presented the items showing UTD's stance, which is that the mural should be considered a non-commercial sign due to it being art under section 150-030 Sign Regulations. Attorney Fernandez showed signage for other commercial properties in the City and noted how the approved signage contradicted the color pallet requirement.

Chair Aloma offered public commentary from the UTD Staff that were present although they declined. Chair Aloma continued by specifying that section 150-030 is for a separate district and that the current UTD mural denial was due to the painting of the wall and not in regards to signage. He outlined that the signage which Attorney Fernandez presented did not apply to the current issue as there are separate requirements for signage. Chair Aloma again sets that the denial was due to the wall being painted and the regulation that was not followed was the 3-color allowance.

Further discussion is made between the Board and Attorney Fernandez. Board Member Valencia asked Attorney Fernandez whether a permit was applied for and Attorney Fernandez explained UTD interpreted via the Code section 150-030 that a permit was not needed. Board Member Valencia showed concern for the timeline between UTD being informed the mural was not allowed to the mural being painted.

UTD staff member Jeffrey Garcia approached the Board and Secretary Garcia swore him in. Mr. Garcia clarified that he believed the current timeline on record was not accurate as they were advised by a previous Council Member that the mural would be allowed as per the Code. Further discussion in regards to the timeline, permit requirements and section 150-030 continued.

Attorney Uribe reiterates that section 93-51 is specifically intended to be applied to the NW 36th street district which is for the allowed colors and that signage requirements are under a different section of the Code. Attorney Fernandez specified that he believed Code 150-030 does allow the mural as signage and that he believed the Code should be changed if his interpretation is incorrect.

Vice Chair Tallman repeated that the Code does not consider a mural a sign as it is art in a public space. Board Member Madan requested clarification on whether the Gateway District has exceptions for the color pallet for murals. City Planner Heid explained that if a mural were painted with three colors for the 36th Street district it would be acceptable but he wanted to correctly state that there are two approved color pallets. The first section of the color pallet includes the NW 36th Street district and second section of the color pallet includes all other commercially zoned districts.

Vice Chair Tallman questioned if a mural was proposed in the overlay district would it be expected to be limited to three shades of the color pallet in order to be permissible. City Planner Heid explained that a review process would be done whether to allow the design and if the mural fell into the requirements of the Code and FAR bonus.

Attorney Fernandez asked City Planner Heid if a mural were to be allowed in the Gateway District with more than three colors if no bonus was pursued. City Planner Heid clarified that murals were allowed in the Overlay District as per performance excellence standard in seeking the bonus through demolition or new construction.

Board Member Madan moved to recommend the City Council upholds the City Planners determination for the UTD's appeal to be denied. No Board Member seconded the motion. The motion failed.

Chair Aloma questioned the City Attorney's on the procedure of a failed motion. Attorney Arango noted that an action must be taken and the decision made will go before the Council for consideration. After further clarification the City Attorney's stated that the failed motion could be reconsidered by the Board.

Board Member Madan moved to recommend the City Council uphold the City Planners determination for UTD's appeal to be denied. Vice Chair Tallman seconded the motion which carried 3-2 on rollcall vote. The vote was as follows: Vice Chair Tallman, Board Member Kropp, Board Member Madan voted YES. Board Member Valencia and Chair Aloma voted NO.

After further discussion Board Member Madan expresses the Board should recommend to Council that they look into creating a process for authorizing artistic murals as it will benefit the district. Chair Aloma confirmed it should be done via a second motion.

Board Member Madan moved to recommend to City Council to create a process to allow murals and for murals to be specifically permitted on NW 36th street district. Board Member Tallman seconded the motion which carried unanimously 5-0 on voice vote.

5. Adjournment

There being no further business the meeting was adjourned at 07:47 PM.

Respectfully submitted:

Sandra Duarte
Board Secretary

Adopted by the Board on
this ____ day of _____, 2022.

Ernie Aloma, Chair

Words ~~-stricken through-~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

“The comments, discussions, recommendations and proposed actions of City Citizen Advisory Boards do not constitute the policy, position, or prospective action of the City, which may only be established and authorized by an appropriate vote or other action of the City Council”.
